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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,722	01/08/2001	Bob Francis	ZL370/01001	8367
22884	7590	06/13/2005	EXAMINER	
MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			HAVAN, THU THAO	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,722

Applicant(s)

FRANCIS ET AL.

Examiner

Thu Thao Haven

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Drawings

The Examiner accepts the drawings filed on July 5, 2001.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by
Friedland et al. (US 6,449,601).

Re claims 1 and 13, Friedland teaches a method of accepting prebids in advance of a live auction (col. 6, lines 14-15), said method comprising: a) providing a prebid web site (col. 6, lines 17-22) system to accept prebids (fig. 2, element 206), said web site system including a merchandise database of information pertaining to auction lots to be sold in live auctions and a prebid database in which the details of prebids received in respect of said auction lots can be stored (figs. 3 and 4); b) using said web site system to accept prebids in respect of an auction lot (fig. 5-6) by: i) allowing bidders to transmit prebids from bidder computers to said web site system within a specified time frame, wherein each prebid transmitted includes a maximum prebid amount (fig. 7, element

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724); ii) recording said prebids in said prebid database (col. 8, lines 51-67; fig. 14, element 1410); iii) upon expiry of said specified time frame accepting no further prebids and selecting the winning prebid (col. 6, lines 55-66); and iv) submitting said winning prebid from the prebid database to the live auction of said auction lot (col. 6, lines 14-67).

In other words, Friedland discloses prebid via an internet. Once the prebid is implemented than a live auction is taken place. The prebid information is stored in a database wherein the bidder selected particular categories of lots. Also, a transition from the active state to the inactive state may occur upon the expiration of a defined bidding period or, in other words, via a timeout.

Re claims **2** and **14**, Friedland teaches winning prebid in respect of an auction lot is the prebid with the highest maximum prebid amount (col. 7, lines 1-20; fig. 10 (element 1016)). *Friedland chooses highest maximum prebid amount by choosing the bidder with the highest bid.*

Re claims **3-5** and **15-17**, Friedland teaches live auction is a physical auction and an online auction and wherein live auction is a combined physical and online auction (fig. 3). *In figure 3, Friedland discloses both online auction and a physical auction.*

Re claims **6-7, 18, 20-21, and 25**, Friedland teaches a bidder is only allowed to submit one prebid in respect of each auction lot and a bidder is able to submit more than one prebid in respect of each auction lot (col. 12, line 42 to col. 13, line 14).

Re claims **8-10, 19, and 26**, Friedland teaches prebid web site system is operatively connected to said online auction, and wherein said winning prebid is automatically submitted to the live auction, winning prebid comprises manually entering said winning

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prebid into said physical auction sale, prebid web site system is operatively connected to said online auction, and wherein said winning prebid is automatically submitted to said live auction (col. 14, line 44 to col. 15, line 21).

Re claims **11-12** and **24**, Friedland teaches a prebid can optionally include an opening prebid amount in addition to the maximum prebid amount and no two prebids are allowed to have the same maximum prebid amount (col. 6, line 53 to col. 7, line 20).

Friedland discloses the highest prebid amount as the maximum prebid amount.

Re claims **22-23**, Friedland teaches prebid control system allows a bidder to view information from the merchandise database from their bidder computer and prebid control system allows a bidder to view information from the prebid database from their bidder computer (figs. 3, 5, and 9). *In figures 3, 5, and 9, Friedland's system permits a bidder to view information as claimed in the limitations.*

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Force, US patent no. 6,704,716, teaches seller and bidder to negotiate;

Alaia et al, US patent no. 6,408,283, discloses electronic auction using a configurable bid monitoring agent; and

Miller et al., US publication no. 2004/0098292, teaches information provided between various groups according to user's account.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH
6/6/2005

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
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